

Joyce W. Lindauer  
State Bar No. 21555700  
Joyce W. Lindauer Attorney, PLLC  
1412 Main Street, Suite 500  
Dallas, Texas 75202  
Telephone: (972) 503-4033  
Facsimile: (972) 503-4034  
ATTORNEY FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**IN RE:**

**PREFERRED READY-MIX LLC,**

**Debtor.**

§  
§  
§  
§  
§

**CASE NO. 21-33369**

**Chapter 11**

**DEBTOR PREFERRED READY-MIX LLC'S OBJECTION TO CLAIM OF RAY  
YOUNG JR. (CLAIM NO. 11)**

**THIS IS AN OBJECTION TO YOUR CLAIM. THIS OBJECTION ASKS  
THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS  
BANKRUPTCY CASE. IF YOU DO NOT FILE A RESPONSE WITHIN 30  
DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM  
MAY BE DISALLOWED WITHOUT A HEARING.**

**A HEARING HAS BEEN SET ON THIS MATTER ON APRIL 22, 2022 AT  
11:00 A.M. BEFORE THE HONORABLE JEFFREY P. NORMAN, UNITED  
STATES BANKRUPTCY COURT, 515 RUSK AVENUE,  
COURTROOM 403, HOUSTON, TEXAS 77002.**

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

COMES NOW Preferred Ready-Mix LLC, Debtor herein (“Debtor”), and files this its Objection to Claim of Ray Young Jr., and would respectfully show this Court as follows:

### **I. JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B).

2. Venue is proper pursuant to 28 USC § 1408 and 1409.

### **II. FACTUAL AND PROCEDURAL BACKGROUND**

3. On October 14, 2021 (“Petition Date”) the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”).

4. The Debtor’s plan of reorganization has not yet been confirmed.

5. Ray Young Jr. (the “Claimant”) filed proof of claim no. 11 in the Debtor’s case in the amount of \$3,172.68 (the “Claim”). The Claim is alleged to be a priority claim. A true and correct copy of the proof of claim is attached hereto as Exhibit “A.”

### **III. OBJECTIONS TO CLAIM**

6. The Debtor objects to the Claim for the following reasons:

a. The Debtor objects to the Claimant’s characterization of the Claim as a priority claim. Claimant is not entitled to any wages, salaries, or commissions earned within 180 days before the bankruptcy petition was filed.

b. The Debtor objects to the Claim in its entirety as the Debtor has paid any wages, salaries, or commissions earned by Claimant. The Claimant was employed by Debtor for approximately one week and was paid for every hour worked that week.

c. Claimant arrived at work after the first week under the influence and was immediately let go by Debtor. Substance abuse during work would cause a major safety issue for Claimant as well as other employees. Showing up for work in such a state was immediate grounds for termination.

7. Based on the foregoing, the Debtor objects to the allowance of any part of the Claim. The Affidavit of Robert Foran is attached hereto as Exhibit "B" and verifies this Objection.

WHEREFORE, PREMISES CONSIDERED, the Debtor requests the Court to enter an order disallowing the Claim and granting such other and further relief to which the Debtor may be justly entitled.

Dated: March 8, 2022.

Respectfully submitted,

/s/ Joyce W. Lindauer

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State Bar No. 21555700  
Joyce W. Lindauer Attorney, PLLC  
1412 Main St. Suite 500  
Dallas, Texas 75202  
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Facsimile: (972) 503-4034  
ATTORNEYS FOR DEBTOR

**CERTIFICATE OF SERVICE**

This is to certify that on March 8, 2022, a true and correct copy of the foregoing document was served via email pursuant to the Court's ECF system upon the parties receiving electronic notice in this case listed below. The Claimant was served by United States first class certified mail, return receipt requested, at the address listed below.

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ray Young Jr.  
The Ventress Firm, P.C.  
1322 Space Park Dr., Ste C222  
Houston, TX 77058

**VIA ECF**

Robert W Berleth  
[rberleth@berlethlaw.com](mailto:rberleth@berlethlaw.com)

Allison D Byman  
[adb@bymanlaw.com](mailto:adb@bymanlaw.com), [adb@trustesolutions.net](mailto:adb@trustesolutions.net); [rww.trustee1@gmail.com](mailto:rww.trustee1@gmail.com);  
[cadbl1@trustesolutions.net](mailto:cadbl1@trustesolutions.net); [rah@bymanlaw.com](mailto:rah@bymanlaw.com)

Hector Duran, Jr  
[Hector.Duran.Jr@usdoj.gov](mailto:Hector.Duran.Jr@usdoj.gov)

Jessica Lee Hoff  
[jhoff@hofflawoffices.com](mailto:jhoff@hofflawoffices.com), [JHoff@jubileebk.net](mailto:JHoff@jubileebk.net)

Jeffery B Kaiser  
[jkaiser@kaiser-law.com](mailto:jkaiser@kaiser-law.com), [admin.three@kaiser-law.com](mailto:admin.three@kaiser-law.com)

Joyce Williams Lindauer  
[joyce@joycelindauer.com](mailto:joyce@joycelindauer.com), [dian@joycelindauer.com](mailto:dian@joycelindauer.com)

Derek W Loetzerich  
[derek@loetzerichlaw.com](mailto:derek@loetzerichlaw.com)

John June-chul Na  
[john@mnnlawfirm.com](mailto:john@mnnlawfirm.com), [pete@mnnlawfirm.com](mailto:pete@mnnlawfirm.com)

Karina Shareen  
[kshareen@twpdlaw.com](mailto:kshareen@twpdlaw.com)

Brendon D Singh

[Bsingh@ts-llp.com](mailto:Bsingh@ts-llp.com), [ecf@ctsattorneys.com](mailto:ecf@ctsattorneys.com); [corraltransinghllp@jubileebk.net](mailto:corraltransinghllp@jubileebk.net)

US Trustee

[USTPRegion07.HU.ECF@USDOJ.GOV](mailto:USTPRegion07.HU.ECF@USDOJ.GOV)

Lisa Elizabeth Ventress

[lisa@theventressfirm.com](mailto:lisa@theventressfirm.com)

/s/ Joyce W. Lindauer  
Joyce W. Lindauer

## Fill in this information to identify the case:

Debtor 1 Preferred Ready - Mix LLC

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: Souther District District of Texas  
(State)

Case number 21-33369

## Official Form 410

## Proof of Claim

12/15

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

## Part 1: Identify the Claim

1. Who is the current creditor?	<u>Ray Young Jr.</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>The Ventress Firm, P.C.</u> Name <u>1322 Space Park Dr. Ste C222</u> Number Street <u>Houston Texas 77058</u> City State ZIP Code Contact phone <u>832-240-4365</u> Contact email <u>Lisa@theventressfirm.com</u>  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	<b>Where should payments to the creditor be sent? (if different)</b> <u>The Ventress Firm, P.C.</u> Name <u>1322 Space Park Dr. Ste. C222</u> Number Street <u>Houston Texas 77058</u> City State ZIP Code Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2:** Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 3,172.68 Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
 Limit disclosing information that is entitled to privacy, such as health care information.

Unpaid Wages

9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.
- Nature of property:**
- ☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
- ☐ Motor vehicle
- ☐ Other. Describe: \_\_\_\_\_
- Basis for perfection:** \_\_\_\_\_
- Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
- Value of property:** \$ \_\_\_\_\_
- Amount of the claim that is secured:** \$ \_\_\_\_\_
- Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)
- Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_
- Annual Interest Rate** (when case was filed) \_\_\_\_\_ %
- ☐ Fixed
- ☐ Variable

10. Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check all that apply:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ \_\_\_\_\_

☐ Up to \$2,775\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ \_\_\_\_\_

☒ Wages, salaries, or commissions (up to \$12,475\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ 3172.68

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ \_\_\_\_\_

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ \_\_\_\_\_

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12/14/2022  
MM / DD / YYYY



Signature

Print the name of the person who is completing and signing this claim:

Name Lisa Ventress  
First name Middle name Last name

Title Attorney

Company The Ventress Firm, P.C.  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1322 Space Park Dr. Ste. C222  
Number Street

Houston TX 77058  
City State ZIP Code

Contact phone (832)240-4365 Email lisa@theventressfirm.com



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<b>IN RE:</b>	§	
	§	
<b>PREFERRED READY-MIX LLC,</b>	§	<b>CASE NO. 21-33369</b>
	§	
<b>Debtor.</b>	§	<b>Chapter 11</b>

**AFFIDAVIT OF ROBERT FORAN**

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

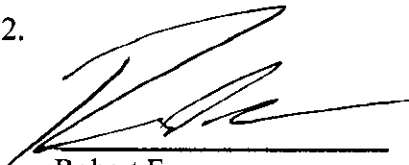
On this day appeared Robert Foran, who, upon being duly sworn, did attest to the following:

1. My name is Robert Foran. I am over the age of 18 years, of sound mind, and am competent and otherwise qualified to make this Affidavit. I have personal knowledge of the matters stated herein and they are all true and correct to the best of my knowledge.
2. I am the President of the Debtor in this case and have sufficient knowledge of this case and the Creditors.
3. The Debtor objects to Proof of Claim No. 11 filed by Ray Young Jr. as priority claim. Debtor does not owe any wages, salaries, or commissions to Ray Young Jr that were earned within 180 days before the bankruptcy petition was filed.


4. The Debtor objects to Proof of Claim No. 11 filed by Ray Young Jr. in its entirety. Ray Young Jr. was employed by Debtor for approximately one week and was paid for every hour worked that week.

5. Ray Young Jr. was let go by the Debtor when he arrived at work after his first week under the influence. Substance abuse during work would cause a major safety issue for Ray Young Jr. as well as other employees. Showing up for work in such a state was immediate grounds for termination.

Executed this 21 day of February, 2022.

  
Robert Foran

Subscribed and sworn to before me on this 21 day of February, 2022

  
Notary Public in and for the State of Texas

My Commission Expires: 6/6/24

